

117TH CONGRESS
2D SESSION

S. 3474

To amend title 5, United States Code, to increase death gratuities and funeral allowances for Federal employees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 11 (legislative day, JANUARY 10), 2022

Ms. SINEMA (for herself, Mr. PORTMAN, Mr. PADILLA, and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title 5, United States Code, to increase death gratuities and funeral allowances for Federal employees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Honoring Civil Serv-
5 ants Killed in the Line of Duty Act”.

6 **SEC. 2. INCREASING DEATH GRATUITY FOR FEDERAL EM-**
7 **PLOYEES KILLED IN THE LINE OF DUTY.**

8 (a) AMENDMENTS TO TITLE 5, UNITED STATES
9 CODE.—

1 (1) IN GENERAL.—Subchapter VII of chapter
2 55 of title 5, United States Code, is amended by
3 adding at the end the following:

4 **“§ 5571. Employee death gratuity payments**

5 “(a) DEFINITION.—

6 “(1) IN GENERAL.—Notwithstanding section
7 5561(2), in this section, the term ‘employee’ means
8 an individual who has been determined by the Sec-
9 retary of Labor to be an employee within the mean-
10 ing of section 8101(1).

11 “(2) EXCLUSIVE AUTHORITY.—A determination
12 described in paragraph (1) may be made only by the
13 Secretary of Labor.

14 “(b) GRATUITY.—

15 “(1) IN GENERAL.—With respect to the death
16 of an employee occurring on or after the date of en-
17 actment of this section, notwithstanding section
18 8116, and in addition to any payment made under
19 subchapter I of chapter 81, the head of the agency
20 employing the employee shall pay from appropria-
21 tions made available for salaries and expenses of
22 that agency a death gratuity to the person identified
23 under subsection (c)(2), if the death of the em-
24 ployee—

1 “(A) results from injury sustained while in
2 the line of duty of the employee; and

3 “(B) is not—

4 “(i) caused by willful misconduct of
5 the employee;

6 “(ii) caused by the intention of the
7 employee to bring about the injury or
8 death of the employee or another; or

9 “(iii) proximately caused by the in-
10 toxication of the injured employee.

11 “(2) AMOUNT.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), the amount of a death gra-
14 tuity paid under paragraph (1) with respect to
15 an employee shall be \$100,000, as adjusted
16 each March 1 by the amount determined by the
17 Secretary of Labor to represent the percentage
18 change in the Consumer Price Index for All
19 Urban Consumers (all items; United States city
20 average) published for December of the pre-
21 ceding year over that Index published for the
22 December of the year prior to the preceding
23 year, adjusted to the nearest $\frac{1}{10}$ of 1 percent.

24 “(B) LOCAL COMPENSATION PLANS.—For
25 an employee compensated under a local com-

1 pensation plan established under section 408 of
2 the Foreign Service Act of 1980 (22 U.S.C.
3 3968), the amount of a death gratuity paid
4 under paragraph (1) with respect to the em-
5 ployee shall be in an amount determined in
6 rules issued by the Secretary of State.

7 “(c) RECIPIENT OF PAYMENT.—

8 “(1) DEFINITION.—In this subsection, the term
9 ‘child’—

10 “(A) includes—

11 “(i) a natural child; and

12 “(ii) an adopted child; and

13 “(B) does not include a stepchild.

14 “(2) ORDER OF PRECEDENCE.—A death gra-
15 tuity paid under subsection (b) with respect to an
16 employee shall be paid in the following order of pre-
17 cedence:

18 “(A)(i) To the beneficiary designated to re-
19 ceive the gratuity by the employee in a signed
20 and witnessed writing that is received by the
21 agency employing the employee before the date
22 of the death of the employee.

23 “(ii) A designation, change, or cancellation
24 of beneficiary in a will, or another document

1 not described in clause (i), shall have no force
2 or effect for the purposes of that clause.

3 “(B) If there is no beneficiary described in
4 subparagraph (A), to the surviving spouse of
5 the employee.

6 “(C) If neither subparagraph (A) nor (B)
7 applies, to the children of the employee (includ-
8 ing the descendant of any deceased child by
9 representation) such that each such child re-
10 ceives an equal amount of the gratuity.

11 “(D) If none of subparagraph (A), (B), or
12 (C) applies, to the surviving parents of the em-
13 ployee such that each such surviving parent re-
14 ceives an equal amount of the gratuity.

15 “(E) If none of subparagraphs (A) through
16 (D) applies, to the duly appointed executor or
17 administrator of the estate of the employee.

18 “(F) If none of subparagraphs (A) through
19 (E) applies, to the person entitled, under the
20 laws of the State in which the employee is dom-
21 icated, as of the date on which the employee
22 dies, to receive the payment.

23 “(d) TAX TREATMENT OF PAYMENTS.—For pur-
24 poses of the Internal Revenue Code of 1986, with respect
25 to any death gratuity payment made to a surviving bene-

1 ficiary under this section, that payment shall not be in-
 2 cluded in the gross income of that beneficiary.”.

3 (2) REPEAL OF DEATH GRATUITY PAYMENT AU-
 4 THORITY.—Section 651 of the Treasury, Postal
 5 Service, and General Government Appropriations
 6 Act, 1997 (5 U.S.C. 8133 note) is repealed.

7 (3) TECHNICAL AND CONFORMING AMEND-
 8 MENTS.—

9 (A) TABLE OF CHAPTERS.—In the table of
 10 subchapters for chapter 55 of title 5, United
 11 States Code, the item relating to subchapter
 12 VII is amended to read as follows:

“SUBCHAPTER VII – PAYMENTS TO MISSING PERSONS AND PAYMENTS FOR
 DISABILITY OR DEATH”.

13 (B) TABLE OF SECTIONS.—The table of
 14 sections for subchapter VII of chapter 55 of
 15 title 5, United States Code, is amended by add-
 16 ing at the end the following:

“5571. Employee death gratuity payments.”.

17 (b) AMENDMENT TO TITLE 49.—Section
 18 40122(g)(2) of title 49, United States Code, is amended—

19 (1) in subparagraph (I)(iii), by striking “and”
 20 after the semicolon;

21 (2) in subparagraph (J), by striking the period
 22 at the end and inserting “; and”; and

1 (3) by inserting after subparagraph (J), the fol-
2 lowing:

3 “(K) section 5571, relating to death gratu-
4 ities resulting from an injury sustained in the
5 line of duty.”.

6 **SEC. 3. FUNERAL EXPENSES.**

7 (a) IN GENERAL.—Section 8134(a) of title 5, United
8 States Code, is amended—

9 (1) by inserting “(1)” after “(a)”;

10 (2) by striking “\$800” and inserting “\$8,800”;

11 and

12 (3) by adding at the end the following:

13 “(2) The amount described in paragraph (1) shall be
14 adjusted on March 1 of each year by the percentage
15 amount determined by the Secretary of Labor under sec-
16 tion 8146a for that year.”.

17 (b) APPLICABILITY.—The amendment made by sub-
18 section (a)(2) shall apply with respect to any death occur-
19 ring on or after the date of enactment of this Act.

20 **SEC. 4. DEATH GRATUITY FOR INJURIES INCURRED IN**
21 **CONNECTION WITH EMPLOYEE’S SERVICE**
22 **WITH AN ARMED FORCE.**

23 Section 8102a of title 5, United States Code, is
24 amended—

25 (1) in subsection (a)—

1 (A) by striking “The United States” and
2 inserting the following:

3 “(1) IN GENERAL.—The United States”;

4 (B) in paragraph (1), as so designated, by
5 striking “up to”; and

6 (C) by adding at the end the following:

7 “(2) ADJUSTMENT.—The amount described in
8 paragraph (1) shall be adjusted each March 1 by the
9 amount determined by the Secretary of Labor to
10 represent the percentage change in the Consumer
11 Price Index for All Urban Consumers (all items;
12 United States city average) published for December
13 of the preceding year over that Index published for
14 the December of the year prior to the preceding
15 year, adjusted to the nearest $\frac{1}{10}$ of 1 percent.”;

16 (2) by striking subsection (c) and inserting the
17 following:

18 “(c) RELATIONSHIP TO OTHER BENEFITS.—With re-
19 spect to a death occurring on or after the date of enact-
20 ment of the Honoring Civil Servants Killed in the Line
21 of Duty Act, the death gratuity payable under this section
22 may not be reduced by the amount of any other death
23 gratuity provided under any other provision of Federal law
24 based on the same death.”; and

1 (3) in subsection (d), by adding at the end the
2 following:

3 “(7) If a person covered by this section does
4 not have any eligible survivors, as described in this
5 subsection, and that person has not designated an
6 alternate person to receive a payment under this sec-
7 tion, the payment shall be paid to the personal rep-
8 resentative of the person’s estate.”.

9 **SEC. 5. AGENCY GRATUITY FOR DEATHS SUSTAINED IN**
10 **THE LINE OF DUTY ABROAD.**

11 Section 413 of the Foreign Service Act of 1980 (22
12 U.S.C. 3973) is amended—

13 (1) in subsection (a)—

14 (A) in the first sentence, by striking “de-
15 pendents” and inserting “beneficiaries”; and

16 (B) in the second sentence, by inserting “,
17 except as provided in subsection (e)” after
18 “payable from any source”;

19 (2) by amending subsection (b) to read as fol-
20 lows:

21 “(b) EXECUTIVE AGENCIES.—The head of an execu-
22 tive agency shall, pursuant to guidance issued under sub-
23 section (c), make a death gratuity payment authorized by
24 this section to the surviving beneficiaries of—

1 “(1) any employee of that agency who dies as
2 a result of injuries sustained in the performance of
3 duty abroad while subject to the authority of the
4 chief of mission pursuant to section 207; or

5 “(2) an individual in a special category serving
6 in an uncompensated capacity for that agency
7 abroad in support of a diplomatic mission, as identi-
8 fied in guidance issued under subsection (c), who
9 dies as a result of injuries sustained in the perform-
10 ance of duty abroad.”;

11 (3) by amending subsection (d) to read as fol-
12 lows:

13 “(d) ELIGIBILITY UNDER CHAPTER 81 OF TITLE 5,
14 UNITED STATES CODE.—A death gratuity payment shall
15 be made under this section only if the death is determined
16 by the Secretary of Labor to have resulted from an injury
17 (excluding a disease proximately caused by the employ-
18 ment) sustained in the performance of duty under section
19 8102 of title 5, United States Code.”;

20 (4) by redesignating subsection (e) as sub-
21 section (g);

22 (5) by inserting after subsection (d) the fol-
23 lowing:

24 “(e) OFFSET.—For deaths occurring on or after the
25 date of enactment of this subsection, the death gratuity

1 payable under this section shall be reduced by the amount
2 of any death gratuity provided under section 5571 of title
3 5, United States Code, based on the same death.

4 “(f) TAX TREATMENT OF PAYMENTS.—For purposes
5 of the Internal Revenue Code of 1986, with respect to any
6 death gratuity payment made to a surviving beneficiary
7 under this section, that payment shall not be included in
8 the gross income of that beneficiary.”; and

9 (6) in subsection (g), as so redesignated by
10 paragraph (4), by amending paragraph (2) to read
11 as follows:

12 “(2) the term ‘surviving beneficiaries’ means
13 the person or persons identified pursuant to the
14 order of precedence established under section
15 5571(c)(2) of title 5, United States Code.”.

16 **SEC. 6. EMERGENCY SUPPLEMENTAL AUTHORIZATION.**

17 (a) DEFINITIONS.—In this section—

18 (1) the term “agency” means an agency that is
19 authorized or required to make a payment under a
20 covered provision; and

21 (2) the term “covered provision” means—

22 (A) section 5571 of title 5, United States
23 Code, as added by section 2 of this Act;

24 (B) section 8102a of title 5, United States
25 Code, as amended by section 4 of this Act; or

1 (C) section 413 of the Foreign Service Act
2 of 1980 (22 U.S.C. 3973), as amended by sec-
3 tion 5 of this Act.

4 (b) AUTHORIZATION.—If the head of an agency de-
5 termines, with the concurrence of the Director of the Of-
6 fice of Management and Budget, that a natural disaster,
7 act of terrorism, or other incident results in the inability
8 of the agency to make additional payments under a cov-
9 ered provision—

10 (1) there are authorized to be appropriated to
11 the agency such sums as may be necessary to make
12 those additional payments; and

13 (2) the head of the agency may make those ad-
14 ditional payments only to the extent additional
15 amounts are made available for those purposes.

16 (c) SENSE OF CONGRESS.—It is the sense of Con-
17 gress that, not later than 30 days after the date on which
18 the head of an agency submits to Congress a request for
19 supplemental appropriations for the purposes described in
20 subsection (b), Congress should take action with respect
21 to that request.

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